

# The Federal-State Relationship In Highway Construction

## Public Roads Chief Engineer Explains Bureau's Position

(A clarification of Bureau-State Highway Department-Contractor relations by F. C. Turner, Chief Engineer for the Bureau of Public Roads, has drawn considerable attention and comment from the industry.

Mr. Turner's candid discussion of Bureau controls and regulations in the Federal-aid program came during a meeting of highway directors at the Associated General Contractors mid-year Board meeting at Portland, Oregon last fall.

He was asked to comment directly on the question of just how much control should the Bureau exercise in a Federal-aid highway construction. This has been a subject of increasing concern and possibly misunderstanding within the industry.

First, what is the Bureau-State role? The Bureau's role, Mr. Turner said, is to approve or disapprove, modify or revise, each action proposed by the sovereign state's highway department when that action proposes the use of Federal-aid funds. The Bureau must act as each step is taken so as to be able to certify that the work has been done as originally proposed — before the funds are finally paid out.

The State choosing to use these funds must accept the accompanying responsibility to comply with certain requirements. By law, the projects must fit into a pre-determined system of routes serving certain purposes defined in the law, in order to serve the greatest good.

The law further states that the projects must also be conducive to safety, be durable in material and workmanship, be economical in later maintenance, and meet the existing and probable future needs and conditions.

The contractor isn't even mentioned in this definition of role since the Bureau's relationship is with the state. The project contract, however, is a two-party contract between the contractor and the state highway department.

Also, there is a separate and distinct contract between the Bureau and the state, covering these projects. It is called a project agreement and incorporates by reference the contract which the state has made with the contractor.

He emphasized the point that the state is obligated to pay the contractor for the material if in its supervision of the contract it considers that the contract terms has been met satisfactorily.

"Of course, that decision is not binding on the Bureau and the State's contract with the contractor contains no clauses making it contingent on what the Bureau may later approve and pay for. We do not necessarily have to accept and reimburse the State for every item of payment which they may make to you, (the contractor)."

As for the dual inspection-approval process, Mr. Turner pointed out that the Bureau representative is inspecting the State's performance, rather than the contractor's

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"Since the requirements governing the workmanship and materials are the same, it follows then that the only things which the Bureau inspecting engineer requires the State to do are the same ones which the state in its own supervision of the project should already have required the contractor to do."

He agreed, however, that there is often a difference of opinion or judgment as to what does actually constitute a meeting of the contractor's requirement.

As to the complaint that dual inspection-approval occasions long and useless delays, Mr. Turner had this to say: "If the test is made properly by the state—and the test procedures are standard and developed by AASHO rather than by the Bureau—and the state has confidence that their own test opera-

tions have been properly carried out, then I can't see why they should delay the contractor. If they do delay, then . . . in effect, they are abdicating their rightful position and handing their independence over to the Bureau."

Further stated, the role of the Bureau "is large and admittedly one of influence. But the right to initiate, the responsibility to actually construct and maintain, and the final ownership of the roads rest with the State.

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## Unsung Heroes

Directors too often are the unsung heroes of association life, giving beyond the call of duty and getting little in return besides the satisfaction of doing their bit for the organization that elects them. When they occupy the limelight, it usually is to form a backdrop for the officers and honored guests. They take a bow when presented at the head table, then sit back and wish they could be down there dining with their rank-and-file friends instead. But all year round they bear responsibilities that members who have never been directors find hard to appreciate.

The board of directors is a governing body, with all that such delegation entails. Its members are elected representatives who must put their constituents' welfare before their own. They are trustees of the association's assets, with the burden of deciding how much to spend and how to spend it— and, periodically, the greater burden of deciding *not* to spend for projects that have popular appeal but which, for one reason or another, cannot be undertaken.

Like Congressmen and Senators, individual directors may be under pressure from time to time to "deliver" some particular benefit or advantage to a given sector of the membership. Those who make such demands overlook two basic facts about directors: (1) under the law, they represent *all* the members and are responsible to the group as a whole, and (2) they have no power as individuals, although their influence is unquestionably great. Their official actions must be *taken as a board*, in meeting assembled, subject to rules and majority vote.

Being a director is an ennobling experience, because it gives a man the whole perspective that governing an association requires. It seasons the sweets of authority with the bitters of subordination in the give-and-take of group decision-making. It is a term-long course in tact and diplomacy, in patience and mutual consideration, and in pulling together for the common good.

There is no sanctuary or ivory tower in which a board can hide. It operates in a fishbowl, so to speak. Board service generates breadth and depth of vision. Otherwise, transient values would obscure long-term objectives and disrupt sound activities.

Part of this wisdom comes from stepped-up service as individuals. Directors are the "fall guys" who undertake all kinds of tasks. Statistics show that they are more appointment-prone

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